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Attorneys for Complainant

**BEFORE THE
BOARD OF ACCOUNTANCY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:)	CASE NO. AC-2001-19
)	
JOHN H. WISE)	
4928 E. Clinton, #209)	
Fresno, CA 93727)	DEFAULT ORDER AND
)	DECISION
Certified Public Accountant)	
Certificate No. CPA 9638)	
)	
Respondent.)	

STATUTES AND REGULATIONS

1. California Government Code section 11506 provides, in pertinent part:

“(c) The respondent shall be entitled to a hearing on the merits if the respondent files a notice of defense, and any such notice shall be deemed a specific denial of all parts of the accusation not expressly admitted. Failure to file a notice of defense shall constitute a waiver of respondent’s right to a hearing, but the agency in its discretion may nevertheless grant a hearing. Unless objection is taken as provided in paragraph (3) of subdivision (a), all objections to the form of the accusation shall be deemed waived.”

California Government Code section 11506 further provides that the Notice of Defense shall be filed within 15 days after service of the Accusation. [Govt. Code sections 11506(a) and (b)].

1 2. California Government Code section 11520 provides, in pertinent part:

2 “(a) If the respondent either fails to file a notice of defense or to appear at the
3 hearing, the agency may take action based upon the respondent’s express
4 admissions or upon other evidence and affidavits may be used as evidence without
5 any notice to respondent....”

6 3. The Board of Accountancy, Department of Consumer Affairs (“Board”), is
7 authorized to revoke Respondent’s Certified Public Accountant License pursuant to California
8 Business and Professions Code (“Code”) section 5100, which authorizes the Board of
9 Accountancy to revoke, suspend or refuse to renew or censure the holder of any permit or
10 certificate granted under Articles 4 (commencing with section 5070) and 5 (commencing with
11 section 5080) of the Code for unprofessional conduct.

12 4. Pursuant to section 5100, subdivision (a), of the Code, unprofessional
13 conduct includes “[c]onviction of any crime substantially related to the qualifications, functions
14 and duties of a certified public accountant or a public accountant.”

15 5. Sections 490 and 5106 of the Code provide that a plea of nolo contendere
16 is considered a “conviction” for purposes of disciplinary action by the Board and that the record of
17 the conviction shall be conclusive evidence thereof.

18 6. Section 5063 of the Code provides that a licensee shall report to the Board
19 in writing within 30 days the licensee’s conviction, including those based upon a plea of no
20 contest, of any crime involving theft, embezzlement, or misappropriation of funds or property.

21 7. Section 118, subdivision (b), of the Code provides, in pertinent part, that
22 the expiration of a license shall not, during any period in which it may be renewed, restored,
23 reissued or reinstated, deprive the Board of authority to institute or continue with a disciplinary
24 proceeding or otherwise to take disciplinary action against the licensee.

FINDINGS OF FACT

25 8. On or about May 24, 1962, Certified Public Accountant Certificate No.
26 CPA 9638 was issued by the Board to John H. Wise (“Respondent”). The certificate is on
27 inactive status and will expire on July 31, 2001.

1 9. On or about February 16, 2001, Carol B. Sigmann, in her official capacity
2 as Executive Officer of the Board, filed Accusation No. AC-2001-19 against Respondent. A true
3 and correct copy of the Accusation is attached hereto as Exhibit A and is incorporated as if fully
4 set forth herein.

5 10. On or about March 6, 2001, Teri Sharp, an employee of the Office of the
6 Attorney General, sent by certified and first class mail a copy of Accusation No. AC-2001-19,
7 Statement to Respondent, Government Code sections 11507.5, 11507.6 and 11507.7, the Notice
8 of Defense form, and a Request for Discovery to Respondent's address of record with the Board,
9 which was and is 4928 E. Clinton, #209, Fresno, California 93727, and to another known address
10 for Respondent, which is 2252 W. Keats Avenue, Fresno, California 93711. The domestic mail
11 return receipts were signed for, on behalf of Respondent, and returned to the Office of the
12 Attorney General. The above-described service was effective as a matter of law pursuant to
13 provisions of California Government Code section 11505(c).

14 11. Respondent failed to file a Notice of Defense or to otherwise respond
15 within 15 days after service of the Accusation upon Respondent at both his address of record and
16 at his other known address. Respondent thereby waived his right to a hearing on the merits of
17 Accusation No. AC-2001-19.

18 12. Pursuant to its authority under Government Code section 11520, and based
19 on the evidence before it, the Board finds that the following allegations contained in Accusation
20 AC-2001-19 are true:

21 A. On or about July 11, 2000, in the U.S. District Court of Nebraska,
22 Case No. 4:98CR3069, Respondent was convicted by his plea of guilty of one count of violating
23 Title 18, U.S.C. sections 1344 and 2 (bank fraud) and of one count of violating Title 18, U.S.C.
24 sections 1956(a)(I)(B)(i) and 2 (money laundering). The circumstances surrounding said
25 convictions are that Respondent prepared and executed a fraudulent bill of sale in connection with
26 a check for \$30,000 from Sand Hills Beef, Inc., and Respondent conducted a financial transaction
27 in the form of a check for \$159,889.94, made payable to Sand Hills Beef, knowing that the

1 monetary instrument represented the proceeds of unlawful activity and that the transaction was
2 designed to conceal the proceeds of unlawful activity.

3 B. Respondent failed to report to the Board his felony convictions in
4 the U.S. District Court of Nebraska, Case No. 4:98CR3069.

5 **DETERMINATION OF ISSUES**

6 By reason of the foregoing Findings of Fact, Respondent is subject to disciplinary
7 action under section 5100 of the Business and Professions Code based upon each of the following
8 determinations:

9 13. Respondent's license to practice as a Certified Public Accountant is subject
10 to discipline for unprofessional conduct under section 5100, subdivision (a), of the Code in that
11 Respondent was convicted of a crime substantially related to the qualifications, functions and
12 duties of a certified public accountant, as described in paragraph 12A.

13 14. Respondent's license to practice as a Certified Public Accountant is subject
14 to discipline for unprofessional conduct in that Respondent violated Code section 5063 by failing
15 to report to the Board his felony convictions, as set forth in paragraph 12B.

16 15. Under each of the Determination of Issues, based upon the Findings of Fact,
17 cause for disciplinary action by way of revocation of licensure has been established.

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1 **ORDER OF THE BOARD OF ACCOUNTANCY**

2 Certified Public Accountant Certificate number CPA 9638, heretofore issued to
3 John H. Wise, is hereby revoked. An effective date of June 23, 2001, 2001, has been
4 assigned to this Order.

5 Pursuant to California Government Code section 11520(b), Respondent is entitled
6 to make any showing by way of mitigation: however, such showing must be made in writing to
7 the Board of Accountancy, 2000 Evergreen Street, Suite 250, Sacramento, California 95815,
8 prior to the effective date of this decision.

9 Made this 24th day of May, 2001.

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12 DONNA MCCLUSKEY
13 President
14 Board of Accountancy
15 Department of Consumer Affairs
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BEFORE THE
BOARD OF ACCOUNTANCY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

Case No. AC-2001-19

JOHN H. WISE
4928 E. Clinton, #209
Fresno, CA 93727

A C C U S A T I O N

License No. CPA 9638

Respondent.

Complainant alleges:

PARTIES

1. Carol B. Sigmann ("Complainant") brings this Accusation solely in her official capacity as the Executive Officer of the Board of Accountancy, Department of Consumer Affairs.

2. On or about May 24, 1962, the Board of Accountancy issued License Number CPA 9638 to John H. Wise ("Respondent"). The CPA License is on inactive status and will expire on July 31, 2001.

JURISDICTION

3. This Accusation is brought before the Board of Accountancy ("Board"), under the authority of the following sections of the Business and Professions Code ("Code").

1 FIRST CAUSE FOR DISCIPLINE

2 (Conviction of a Crime)

3 4. Respondent is subject to disciplinary action under Business and
4 Professions Code section 5100(a). On or about July 11, 2000, in the U.S. District court of
5 Nebraska, Case No. 4:98CR3069, respondent was convicted by his plea of guilty to one count of
6 violation of Title 18, U.S.C. sections 1344 and 2 (bank fraud) and one count of violation of Title
7 18 U.S.C. section 1956(a) (I) (B) (i) and 2 (money laundering).

8 The circumstances of the crime are as follows: Respondent prepared and
9 executed a fraudulent bill of sale in connection with a check for \$30,000 from Sand Hills Beef,
10 Inc., and respondent conducted a financial transaction in the form of a check for \$159,889.94
11 made payable to Sand Hills Beef knowing that the monetary instrument represented the proceeds
12 of unlawful activity and that the transaction was designed to conceal the proceeds of unlawful
13 activity.

14 SECOND CAUSE FOR DISCIPLINE

15 (Failure to Notify Board of Conviction)

16 5. Respondent is subject to disciplinary action under Business and
17 Professions Code section 5063. Respondent has failed to notify the Board of his felony
18 convictions in U.S. District Court of Nebraska, Case No. 4:98CR3069.

19 COST RECOVERY

20 6. Business and Professions Code section 5107 provides that the Board may
21 request the administrative law judge to direct a licensee found to have committed a violation or
22 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation
23 and enforcement of the case.

24 7. The Board has incurred reasonable costs in investigating and enforcing
25 this disciplinary action against respondent, the exact amount of which cannot be known until
26 immediately prior to the commencement of the hearing for this case. The amount and proof of
27 such costs will be provided at, or immediately prior to, the hearing, pursuant to Business and
28 Professions Code section 5107.

- WHEREFORE, complainant prays that the Board hold a hearing on the matters alleged herein and following said hearing issue a decision and order:
1. Revoking or suspending License No. CPA 9638 issued to John H. Wise.
 2. Ordering John H. Wise to pay the Board its costs it incurred in investigating and enforcing the case according to proof at the hearing pursuant to Business and Professions Code section 5107; and,
 3. Taking such other and further action as deemed necessary and proper.

DATED: February 16, 2001

Carol B. Sigmann
CAROL B. SIGMANN
 Executive Officer
 Board of Accountancy
 Department of Consumer Affairs
 State of California
 Complainant

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